

IMPORTANT INFORMATION CONCERNING TDOT DBE GOAL CONTRACTS

A mini-reference to help DBEs, Prime Contractors and TDOT Field personnel on DBE goal projects

DBE PROGRAM REGULATIONS:

DBEs and prime contractors must follow the state and federal regulations concerning goal contracts, specifically [49 CFR 26](#) and [Special Provision \(SP\) 1247](#) (Note that many (but not all) of the most encountered issues from 49 CFR 26 are summarized in SP 1247).

Other TDOT regulations concerning DBEs are found here:

[Circular Letter Section 108.01 - Subletting Of Contract](#)

[Circular Letter Section 1247 DBE Subcontracting - Monitoring of Projects with DBE Subcontracts](#)

To qualify for goal credit, DBEs must perform a Commercially Useful Function (CUF). To perform a CUF, **the DBE must be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable) and paying for the material itself.** ([SP 1247 B.](#))

IMPORTANT ITEMS CONCERNING ALL DBES ON GOAL CONTRACTS*:

- DBEs must perform work with their own employees (not the prime contractor's employees) and this should be verifiable via payroll records.
- Joint Check requests must be approved through the Small Business Development Program (see [SP 1247\(C\) \(5\)](#)) prior to usage.
- DBEs should not rent/lease equipment from the same Prime Contractor for which they are working. If a DBE needs to rent/lease equipment, they should rent from a prime that is not affiliated with their present contract or through a third party.
- DBEs may not be dismissed from goal projects without following the guidelines in [49 CFR 26.53\(f\)\(4\)](#). Prior authorization from the Small Business Development Program (SBDP) is required. The SBDP should be contacted early in the process when there are DBE issues to hopefully mitigate the need for dismissal.

IMPORTANT ITEMS FOR TRUCKING/HAULING DBEs ON GOAL CONTRACTS*:

- DBEs should follow the regulations outlined in [49 CFR 26.55\(d\)\(2\)](#) and [SP 1247 B.7](#) for receiving DBE credit for goal contracts:
 - DBEs must own and operate at least one fully licensed, insured, and operational truck on all DBE goal contracts.
 - DBEs may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE, for full credit.
 - DBEs may also lease trucks from non-DBE firms, including owner-operators, not to exceed the value of transportation services provided by DBE-owned trucks on the contract (1-to-1 ratio).
 - However, If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to full credit for the total value of these hauling services, per [49 CFR 26.55\(d\)\(6\)](#)
- **If a DBE is hauling materials and will not enter the jobsite under their contract, a TDOT Project Supervisor should be contacted to ensure a Commercially Useful Function (CUF) form is completed.**

RECEIVING CREDIT FOR MANUFACTURERS OR SUPPLIERS ON GOAL CONTRACTS*:

Two ways to receive credit – 100% credit for DBE Manufacturers / 60% credit for DBE Suppliers ([49 CFR 26.55\(e\)](#) and [SP 1247 \(B\)\(4\) - \(5\)](#))

- 1) A manufacturer...operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract. [49 CFR 26.55 \(e\)\(1\)\(ii\)](#)
- 2) A regular dealer...owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment [specified under the contract] are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. [49 CFR 26.55 \(e\)\(2\)\(ii\)](#)
 - o A [DBE] may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided [above] if the person both owns and operates distribution equipment for the products. [i.e., trucks would be considered “distribution equipment” if they are hauling] [49 CFR 26.55 \(e\)\(2\)\(ii\)\(B\)](#)

DBE MAILBOXES -

DBE PAPERWORK SUBMITTAL

- DBE subcontracts, CC3 Forms, 2nd Tier requests and any other forms concerning DBEs should be sent in a timely manner to the Small Business Development Office (in addition to being sent to the field office) at TDOT.DBE.Program@tn.gov.
- A CUF (Commercially Useful Function) form must be completed by **TDOT** personnel for each DBE and sent to this email address as soon as performed.

PROMPT PAYMENT SUBMITTAL

- Prompt Payment forms should be completed monthly and returned in Excel format to: DBE.Runningtally@tn.gov (in addition to being sent to the field office).

**Note: this list is not all-inclusive, but some of the bigger issues we encounter on contracts with DBEs.*

Please contact the SBDP Director with any questions or if you think anything should be added to this list:

David Neese, Small Business Development Program Director

David.Neese@tn.gov 615-253-1077

Special note for Prime Contractors – It is ultimately the prime contractor’s responsibility for the completion of the contract with TDOT, and therefore they are responsible for the actions of subcontractors working for them. It is important to ensure that DBEs working for goal credit have been recognized by TDOT field supervisors as being on the jobsite. A CUF must be completed for every DBE that is intended to be used for Goal Credit. If a supplier or hauler will be somewhere other than the jobsite, it is up to prime to ensure a CUF is completed by the TDOT field personnel on the DBE. Otherwise, there is no record of the DBE performing for goal credit and it could jeopardize making the DBE goal and may result in penalties.

RETURN TO TDOT SMALL BUSINESS DEVELOPMENT PROGRAM WEBPAGE